THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 20544 of 2005

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed seeking a writ of Certiorari calling for the records relating to the order dated 16.7.2004 passed in O.A. No. 980 of 2001 on the file of the Central Administrative Tribunal, Hyderabad Bench and to set aside the order dated 16.7.2004 as illegal and arbitrary.

The petitioners herein filed O.A. No. 980 of 2001 seeking to quash the proceedings dated 11.4.2001 and to direct the respondents to effect fixation of pay taking into consideration the recommendations of the V Central Pay Commission accepted by the Government and notified vide Gazette of India – 191 dated 30.9.1997 insofar as drawal of D.A. is concerned, namely, inflation neutralisation payable uniformly at the rate of 100% at all levels while ignoring the illustration No. III notified in GOI-385-page 134 and to direct the payment of arrears with a reasonable interest on fixation of pay and other consequential and attendant benefits. After hearing the learned counsel on both sides and perusing the material available on record, the Tribunal declined to grant the relief sought by the applicants

holding that the revised pay of the applicants has been fixed correctly according to the recommendations of the V Central Pay Commission which are accepted by the Government of India and therefore there are no merits in the O.A. The Tribunal accordingly dismissed the O.A., aggrieved by which the petitioners – applicants filed this writ petition.

Heard the learned counsel for the parties and perused the material available on record.

The contention of the learned counsel for the petitioners is that the Government of India constituted V Central Pay Commission to go into the revision of pay scales, service and allied matters of its employees and the said Commission submitted its report to the Government on 30.1.1997 followed by certain supplements for approval and the Government accepted the same with certain modifications vide resolution dated 30.9.1997, but disregarding the recommendations which were accepted by the Government, the respondent department resorted to fixing of pay on the basis of certain explanatory notes contained in the Illustration No. III at page 134 of the Gazette of India, Part II Section 3, Sub Section (i) dated 30.9.1997, without taking into account the accepted resolutions in toto under GSR 569 (E) and that the Tribunal failed to consider the same and therefore the order passed by the Tribunal is liable to be set aside.

On the other hand, it is contended by Sri A. Rajashekar Reddy, learned Assistant Solicitor General of India

appearing for the respondents that the Tribunal has considered the matter in proper perspective and rightly rejected the case of the petitioners and therefore this writ petition may be dismissed.

Having regard to the submissions made by the learned counsel for the parties, we have once again perused the order under challenge. The Illustration No.5 at Para 169.2 (v), as rightly held by the Tribunal, is taken from the V Central Pay Commission's recommendations, which is shown at page 134 of the Gazette of India in regard to the fixation of pay and therefore, we are of the considered view that the Tribunal rightly rejected the contention of the petitioners that the said illustration is given by the Government by way of executive direction and it is not part of V Central Pay Commission's recommendations. The V Pay Commission's recommendations are to the effect that 100% neutralisation of D.A. is to be given at all levels taking into consideration the D.A. admissible as on 1.1.1996 at the index of 1510. The order dated 11.4.2001 passed by the 2nd respondent while rejecting the representation submitted by the petitioners is also to the same effect that the V Central Pay Commission has specifically stated that only the admissible D.A. at the index average of 1510 as on 1.1.1996 should be taken into account at the time of fixation of pay in the revised pay scales. Therefore, we are of the considered view that the Tribunal rightly came to the conclusion that the revised pay of the petitioners has been fixed correctly

according to the said recommendations of the V Central Pay Commission which are accepted by the Government of India.

Having regard to the facts and circumstances, we find no merit in this writ petition. It is accordingly dismissed.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 11-06-2007.

MVB.